Residential Tenancy Act

A Guide for Landlords & Tenants in British Columbia

BRITISH COLUMBIA

Residential Tenancy Office

Ministry of Public Safety and Solicitor General

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--- Introduction ---

This guide provides valuable information about how the *Residential Tenancy Act* affects landlords and tenants in British Columbia. The *Residential Tenancy Act* applies to residential tenancies in British Columbia and most residential licenses to occupy; it does not apply to commercial tenancies. Manufactured home park tenancies fall under the *Manufactured Home Park Tenancy Act,* unless the tenant rents the home and the home site from the same landlord. Other situations where the *Residential Tenancy Act* does not apply are living accommodation owned or operated and provided to students or employees by an educational institution; living accommodation in which the tenant shares bathroom or kitchen facilities with the owner of that accommodation; emergency and transitional housing; community care, continuing care and assisted living facilities; public or private hospitals, and accommodation occupied as vacation or travel accommodation. This Act applies to tenancies in hotels **not** occupied as vacation or travel accommodation.

For more detailed information on the types of tenancies covered by the *Residential Tenancy Act* and *Manufactured Home Park Tenancy Act*, contact the Residential Tenancy Office.

This Guide describes:

- renting the rental unit
- rights and responsibilities of landlord and tenant while the tenant is renting the property;
- how to handle disputes between landlords and tenants;
- ending a tenancy;

- forms required by the *Residential Tenancy Act;* and,
- addresses of Residential Tenancy offices in British Columbia.

Arbitration of Residential Tenancy Disputes

Arbitration is a dispute resolution process that resolves residential tenancy disputes at hearings conducted by arbitrators. The arbitration system is used for disputes between landlords and tenants. It cannot be used when the dispute is between tenants or between occupants sharing a rental unit.

Arbitrators receive their authority from the Act and fulfill a role similar to that of a judge in a formal court setting. Arbitrators base their decisions on the **evidence** and arguments presented by both parties at arbitration hearings, and the provisions of the *Residential Tenancy Act* and other applicable laws. Arbitrators' decisions are final and binding, subject to limited review provisions contained in the Act and judicial review by the Supreme Court.

The Director of the Residential Tenancy Office, appointed under the Act, designates arbitrators to hear disputes, and Residential Tenancy Offices schedule hearings that will be conducted in person or by conference call as determined by the Director. The *Residential Tenancy Act* sets out the law as it applies to residential tenancy situations and specifies the matters that can go to arbitration for resolution. The Supreme and Provincial Courts of British Columbia accept the jurisdiction of arbitrators to make decisions in residential tenancy disputes.

For More Information

This guide provides general information on the *Residential Tenancy Act.* For more information, go the Residential Tenancy Office website, contact the office nearest you or call the recorded information line at 660-1020 in the Lower Mainland or 1-800-661-4886.

You can contact any Residential Tenancy Office in the province by calling Enquiry BC at 1-800-663-7867 and asking to be connected to the office nearest you.

Where the Act and this guide differ, the Act prevails. You may purchase a copy of the Act and Regulations by contacting:

Crown Publications
521 Fort Street
Victoria BC V8W 1E7
Phone: (250) 386-4636

You can also obtain a copy from your local Government Agent's office or BC Access Center, or on the Residential Tenancy Office website. To access the website, visit the B.C. Government website at:

www. gov.bc.ca

and type "RTO" in the search bar.

--- Renting A ---
Residential Property

To rent in British Columbia, the landlord and tenant must enter into a written tenancy agreement. Effective January 1, 2004, landlords and tenants must complete a condition inspection report of the unit on or before the day the tenant is entitled to possession of the rental unit. Failure to comply with this requirement will affect a landlord or tenant's ability to retain or recover a security deposit.

Tenancy Agreements

Since July 1, 1996, new tenancy agreements between a landlord and tenant must be in writing and must contain terms that outline the rights and responsibilities of both parties. Terms that must be in a written tenancy agreement include the date on which the tenancy starts; when the agreement was entered into; address of the rental unit; the amount of security / pet damage deposit and when they were paid; when the rent is due; legal names of the landlord and tenant; address and / or telephone number of the landlord's agent; rent increases; repairs; access; if the tenancy is for a fixed term; the date the tenancy ends, and which services and facilities, if any, are included in the rent.

A landlord is responsible for ensuring that any residential tenancy agreement entered into or renewed after July 1, 1996, complies in all respects with the Act and the Residential Tenancy Regulation. The Regulation states that standard terms, whether included or not in the written tenancy agreement, are deemed to be part of the agreement.

The agreement must be in at least 8 point type and must be signed and dated by the landlord and tenant.

This sentence is an example of 8 point type.

A copy of the Regulation may be purchased from Crown Publications or downloaded from the RTO website.

A copy of the written tenancy agreement **must** be provided to the tenant no later than 21 days after the agreement is entered into. A sample version of the Residential Tenancy Agreement is available on our website or by contacting the nearest Residential Tenancy Office, Government Agent's office or BC Access Centre. However, use of this form is not mandatory and landlords may develop their own form, as long as the agreement complies with the Regulation.

The Residential Tenancy Agreement is designed for use in all residential tenancies, with two exceptions:

1. If the tenancy agreement is solely for the rental of a manufactured home pad, there is a Manufactured Home Site Tenancy Agreement available.
2. If the landlord is a non-profit landlord as designated under the *Residential Tenancy Act* or Regulations, the references on the Crown Publications Residential Tenancy Agreement relating to rent increases may not apply.

The tenancy agreement must be completed fully and be signed and dated by both the landlord and the tenant.

Additional Terms

The landlord and tenant can negotiate additional terms that may be included in the agreement. Additional terms can deal with issues such as:

- fees and deposits;
- who is responsible for utility costs such as heat and electricity;
- rules about pets;
- whether parking is included; and
- what is agreed about decorating.

If the model Residential Tenancy Agreement is used, additional pages can be attached for this purpose.

Landlords and tenants can agree to any terms, if the terms comply with the Act, and are clear and easily understood, unless the terms are "unconscionable". An unconscionable term is one that is oppressive or grossly unfair to one party to the agreement. If a tenant signs an agreement that conflicts with his or her rights under the Act, the terms of the agreement which conflict with the *Residential Tenancy Act* may not be enforceable.

Tenancy Agreements for People Under 19

Tenancy agreements signed by people under 19 years are enforceable. That means a tenant under 19 is just as accountable for his or her actions as a tenant over 19.

Security Deposit

The landlord may ask the tenant to pay a security deposit (sometimes called a damage deposit) when they enter into a tenancy agreement. Landlords are not permitted to charge application or processing fees.

With the consent of the tenant or with an arbitrator's order, the landlord may keep all or part of the deposit to cover any damage the tenant does to the rental unit beyond normal wear and tear, any unpaid rent or bills, or any costs to the landlord if the tenant moves out without giving proper notice. Unless the landlord has the tenant's written consent to keep all or part of a deposit or has an outstanding arbitrator's order that can be applied against the deposit, the landlord must return the deposit plus interest within 15 days after the tenancy ends, or apply for arbitration with the Residential Tenancy Office to make a claim against the security deposit. The 15 days does not commence until the tenant provides the landlord with a forwarding address, in writing.

The only time a landlord can request a security deposit is at the beginning of the tenancy. The landlord can charge only one security deposit per rental unit, no matter how many tenants live in the rental unit.

A security deposit can't be more than half of the first month's rent and the landlord can't ask for an extra deposit if the rent is increased.

If the tenant fails to pay the security deposit within 30 days of the start date of the tenancy agreement, the landlord can give a one month notice to end the tenancy.

Note: *It is an offence for a landlord to require more than one security deposit or require a security deposit of more than one half month's rent, other than a pet damage deposit and deposits for keys, garage door openers etc. It is also an offence for a landlord to require that part or all of the security deposit must be forfeited at the end of a month- to-month tenancy or if a tenancy agreement is breached.*

Pets and Pet Damage Deposits

Effective January 1, 2004, landlords can prohibit pets; restrict the size, kind or number of pets the tenant can keep in the rental unit; can set rules regarding pets, and can charge one time pet damage deposit of up to one-half a month's rent. Pet damage deposits can only be used for damage caused by a pet. A landlord cannot require more than one pet damage deposit regardless of the number of pets the landlord permits. The maximum **combined** amount allowable for a security deposit and pet damage deposit is one month's rent. Existing pets and guide animals are exempt from the pet damage deposit provision.

If the landlord permits a new pet on an existing tenancy after January 1, 2004, the landlord may require a pet damage deposit; however, the landlord must do an inspection of the rental unit, with the tenant, complete a condition inspection report and provide a copy to the tenant within 7 days *(see Condition Inspection and Report)*.

Other Fees and Deposits

Landlords can charge non-refundable fees for the following:

- direct cost of replacing keys or other access devices;
- direct cost of additional keys or other access devices requested by the tenant, over and above those provided with the tenancy agreement;
- fees charged by a bank for a returned cheque;
- an administration fee if a tenant's cheque is returned by the bank, or for late payment of rent;
- fees for additional services or facilities not included in the tenancy agreement.

Separate deposits for keys, garage door openers, access cards and other related items are allowed, unless a key for which the deposit is charged is the only means of accessing the rental unit. Normally facilities and services are included in the tenancy agreement. However, if a separate contract is entered into for a facility or service such as additional parking, deposits under that contract may be permitted.

Failure to Comply with the Act or a Term in the Agreement

A landlord and tenant should try to resolve any dispute over a requirement of the *Residential Tenancy Act* or a term of the tenancy agreement. If they are unable to solve the matter, a party may apply for an Arbitrator's order requiring the other party to comply with a requirement of the Act or a term of a tenancy agreement. This will assist in resolving disputes over whether terms in a tenancy agreement are reasonable and enforceable without placing the tenancy agreement at risk.

Q. What can I do if a tenant refuses to pay a fee that is required under the tenancy agreement?

A landlord can apply for an arbitrator's order requiring the tenant to pay a required fee, together with a monetary order that can be deducted from the security deposit or enforced through Small Claims Court. If the tenant refuses to pay the fee in future, the landlord can issue a Notice to End Tenancy for failure to comply with an arbitrator's order.

Condition Inspection and Report

Effective January 1, 2004, landlords and tenants must complete a condition inspection report of the rental unit or property at the start of the tenancy and also when it ends. Before signing a tenancy agreement, landlords and tenants must inspect the rental unit and make a written record of any damage, including stains on the rug or holes in the walls, wear and tear. If the rental unit is in perfect condition, that also should be noted. Photographs can also be useful. Both the landlord and the tenant must sign the condition inspection report, and should keep it with the tenancy agreement to help avoid disputes when the tenancy ends. The landlord must give a copy of the report to the tenant within 7 days after the condition inspection is completed.

Q. What if I find a problem after I move into the rental unit that wasn't noted on the Condition Inspection Report?

A tenant should notify the landlord as soon as he or she becomes aware of the problem. If the landlord doesn't deal with the problem, or the problem is one that wouldn't normally be repaired, the tenant should inform the landlord in writing and keep a copy. If the landlord doesn't make a necessary repair, the tenant can file for arbitration for an arbitrator's order that the landlord make the repair.

Consequences if Requirements Not Met

The landlord loses the right to claim for damages against a security deposit or pet damage deposit **or both** if the landlord does not offer the tenant at least two opportunities for the inspection, unless the tenant has abandoned the rental unit. The tenant loses the right to the return of a security

deposit or a pet damage deposit **or both**, if the landlord has offered the tenant at least two opportunities for the inspection and the tenant has not participated on either occasion. If the landlord has made the inspection with the tenant but does not complete the **Condition Inspection Report,** or provide the tenant with a copy in accordance with the Regulation, the landlord's loses the right to claim against the security deposit, pet damage deposit, **or both**.

The tenant may appoint an agent to act on the tenant's behalf to attend a condition inspection and complete a condition inspection report; however, the tenant must notify the landlord before the inspection takes place.

If a tenant neglects to give the landlord a forwarding address, in writing, within one year after the end of the tenancy, the landlord may keep the security deposit and/or the pet damage deposit.

Income and Other Discrimination

A landlord can't discriminate against a tenant or prospective tenant based on income if the source of the income is legal. The *Human Rights Act* states no one can discriminate in a tenancy or any other matter on the basis of race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, or sexual orientation. However, this may not apply to certain tenancies where:

- the tenant shares bathroom or kitchen facilities with the owner of that accommodation,
- the rental unit is in a building or development reserved for people 55 or older, or
- the rental unit is designed for people with disabilities.

Individuals who believe they have been discriminated against can contact the BC Human Rights Tribunal.

Q. Is it income discrimination if a landlord refuses to rent to someone because that person is on income assistance?
Yes. Income assistance is a legal source of income; a landlord can't refuse to rent to people for this reason alone.

For more information on discrimination, contact:

BC Human Rights Tribunal
1170 – 605 Robson Street
Vancouver BC V6B 5J3
Phone: (604) 775-2000 or1-888-440-8844

--- Landlord and Tenant ---
Rights and Obligations

Landlord and tenants have certain rights and obligations. Both must comply with the *Residential Tenancy Act* and the terms contained in their tenancy agreement. This section describes:

- when a landlord can enter the rental unit;
- the landlord's responsibility for providing access to the building for a tenant and their guests;
- who is responsible for repairs and services;
- the tenant's responsibility for paying rent;
- when a tenant may sublet or assign their tenancy;
- what to do if a landlord or tenant does not comply.

When a Landlord Can Enter the Rental Unit

A tenant is entitled to exclusive possession of a rental unit, including reasonable privacy, and quiet and peaceful enjoyment of the rental unit. A landlord may enter the tenant's home under the following circumstances:

- there is an emergency, such as a fire, damaged or blocked pipes or flooding;
- the tenant is at home and agrees to let the landlord or the landlord's agent in;
- the tenant agreed, not more than 30 days before, to let them in for a certain reason;
- the tenant has abandoned the rental unit;
- the landlord has an arbitrator's order or court order to enter the rental unit;

- the landlord has given the tenant written notice at least 24 hours and not more than 30 days in advance. The notice must give the reasons for entering and the time at which the landlord will enter the rental unit. The reasons must be valid and the time in the rental unit must fall between 8 a.m. and 9 p.m., unless the tenants agree to another time.

If a landlord does not follow these rules, a tenant can contact a Residential Tenancy Office to help resolve the dispute (*see Handling Disputes*). If the dispute goes to arbitration and the arbitrator believes the landlord may continue to enter the rental unit illegally, the tenant may be allowed to change the locks and keep the only keys. The tenant must give the landlord the keys when they move out. If the tenant does not do so, the landlord can deduct the cost of changing the locks from the security deposit with the tenant's permission or an arbitrator's order.

Q. How can a landlord protect themselves and their property from a tenant who claims the landlord has been entering their home illegally and has applied for arbitration to change the locks?

A tenant must prove through evidence provided at an arbitration hearing that a landlord violated their privacy before they can change the locks. A landlord may want to discuss this with an Information Officer before arbitration.

Q. What if the tenant has changed the locks and there is an emergency? How would emergency crews get in?

If an emergency happens when the tenant is not home or can't get to the door,

emergency personnel can remove the door. Another option is installing an emergency lock box at the entrance to the building and giving the lock box keys to emergency crews. This way, if there is an emergency; crews can get into the rental unit without damaging the doors. The landlord would not have access to the lock box.

Q. Who pays for the cost of breaking down the door?

If the landlord and the tenant disagree over who's responsible for the emergency, the landlord and/or the tenant may apply for arbitration.

Q. What if the tenant changes the locks without an arbitrator's order?

The landlord can give a tenant a written notice that the tenant has contravened the Act and must correct the situation within a reasonable amount of time. The tenant must either change the locks back and pay for the work done or give the landlord keys to the new locks. If the tenant does not do so, the landlord can give the tenant a one-month notice to end the tenancy (*see Handling Disputes and Ending a Tenancy*). If the original lock was keyed to a master key, the tenant may be required to restore the original lock.

Access to the Building for Tenant and Guests

A landlord must provide access to the building for a tenant, his or her guests and any political candidates or their representatives who are canvassing or distributing material when seeking election to a federal, provincial, regional, municipal or school board office. This means that the landlord can't make such rules as "no guests after 10 p.m.", "no overnight guests" or other rules that would limit a person's ability to enter the rental unit.

Note: *A landlord cannot unreasonably restrict access or make charges for overnight guests. A tenant is responsible for any noise, damage or other problems caused by their guests. It is an offence for a landlord or tenant to alter the means of entrance, or access to a rental unit except by agreement, or if ordered to do so by an arbitrator.*

Repairs and Services

A landlord and tenant are responsible for maintaining, repairing and servicing the rental unit.

The tenant must:

- repair any damage that they or their guests cause, whether on purpose or by accident;
- keep the rental unit in a condition that meets health and cleanliness standards, and
- contact the landlord as soon as possible if a serious problem arises involving repairs or services that are the responsibility of the landlord.

The landlord must:

- maintain the building and property to health, safety and housing standards established by bylaw;
- ensure that the building and property are kept in a condition that makes the building reasonably comfortable to live in;
- oversee repairs for serious problems (unless it's an emergency, a landlord must give proper notice to enter the rental unit *[see When the Landlord Can Enter the Rental Unit]*; however, reasonable access should be allowed if the repairs are at the tenant's request);
- post emergency contact information in a visible place in the building, or provide tenants with that information in writing (the emergency contact can be the landlord and/or another person (*see Emergency Repairs]*); and,
- change the locks or other system of access to the rental unit if the tenant makes the request at the beginning of a new tenancy, and the landlord did not change the locks at the end of the previous tenancy. The landlord is responsible for the costs involved in changing the locks and cannot ask the tenant to pay these costs.

If either a landlord or a tenant does not live up to his or her obligations, the other party can apply for arbitration *(see Handling Disputes)*.

Regular Repairs

A regular or minor repair is not an emergency; however, it is an inconvenience for the tenant and may make the tenancy less valuable. If the repair is not for damages done by a tenant or their guests, the landlord is generally responsible for it. If the landlord doesn't make the repair, the tenant can contact the Residential Tenancy Office for assistance.

If unable to resolve a dispute, either the landlord or the tenant may apply for arbitration *(see Handling Disputes)*.

If an arbitrator agrees that a repair is required and the tenant is not responsible for the damage, the landlord will be ordered to complete the repairs within a given time. If the landlord doesn't make the repairs, the arbitrator may order that the tenant can undertake the repair and deduct the cost from the next month's rent. Alternatively, the arbitrator may order that the rent be paid into a trust fund to cover the cost of the repairs. The landlord will be charged administration fees for this service. The arbitrator may also reduce the tenant's rent to reflect the lowered value of the rental unit. For example, if one of the two bedrooms in the rental unit can't be used because repairs haven't been made, the arbitrator may reduce the rent to that of a one-bedroom suite.

If a landlord fails to make repairs, a tenant may apply for arbitration requesting the rent be redirected by an arbitrator. The arbitrator may order the rent be redirected to the Director, or some other party. The arbitrator may then spend the redirected rents to ensure the repairs are carried out, or may release the rents to the landlord in order to cover the costs of making the repairs. When the repairs are completed to the arbitrator's satisfaction, any remaining rents will be returned to the landlord, less any administrative charges required under the Act.

Terminating or Restricting Non-Essential Services or Facilities

A landlord can eliminate or restrict a service or facility unless the service or facility is essential to the use of the rental unit as living accommodation, or providing the service or facility is a material term of the tenancy agreement.

The landlord must give 30 days written notice, on a Notice Terminating or Restricting a Service or Facility form *(see Forms)*, and must reduce the rent in an amount equivalent to its value.

A service or facility is not essential if the tenant can obtain the service or facility, or a reasonable substitute, through an alternate source. For example, it is not essential that cablevision be provided by the landlord if the tenant can purchase it direct from a cable supplier. A landlord could not eliminate the elevator from a high-rise building, as the tenant cannot reasonably replace the service.

***Note**: It is an offence for a landlord to discontinue providing an essential service or facility that is essential to the tenant's use of the unit as a residence, even if the service or facility is not recorded in the tenancy agreement.*

Emergency Repairs

Repairs are considered an emergency only if the health or safety of the tenant is in danger or if the building or property is at risk. Emergency repairs are defined as:

- major leaks in the pipes or roof;
- damaged or blocked water, sewer pipes or plumbing fixtures;
- electrical systems;
- broken central or primary heating systems; or
- defective locks that let anyone enter the rental unit without a key.

A landlord **must** post an emergency contact name and phone number in a visible place in the building, or provide tenants with the name and number of the emergency contact in writing. If an emergency arises and the tenant is unable to get in touch with the emergency contact, the tenant may

have the repairs done without obtaining an arbitrator's order. If the tenant does contact the landlord before the repairs are completed, the landlord may either take over the repairs and pay for work done up to that point, or allow the repairs to continue and reimburse the tenant for the full cost incurred.

Note: *The tenant must try to contact the emergency contact number at least twice and allow a reasonable amount of time for the contact to respond before going ahead with the emergency repairs.*

Here are two examples of situations where a tenant may have emergency repairs done:

- the pipes have broken and the rental unit is flooding; or
- the furnace is broken, there is no other proper heat source for the home, and it is cold.

The following are not considered emergencies:

- a tenant loses their keys and wants to change the locks;
- a heating element on the stove has burned out; or
- the kitchen sink is plugged.

Q. What if the repair-person overcharges the tenant for the repairs and the tenant has deducted the cost from the rent?

The landlord and the tenant should discuss the problem. If necessary, the landlord could apply for a monetary order (*see Monetary Claims*). If the arbitrator agrees with the landlord, the tenant may have to pay for the extra costs. A tenant should make reasonable efforts to ensure that the price paid is not excessive.

Reimbursing a Tenant for Emergency Repairs

A landlord must reimburse a tenant for the costs of emergency repairs unless an arbitrator orders otherwise. The tenant must provide all receipts for repairs and a written account of what happened. If, after receiving the receipts and account from the tenant, the landlord doesn't reimburse, the tenant can deduct the repair costs from the rent payments. The landlord cannot end the tenancy because the tenant deducted the costs. However, if the landlord believes that the costs were too high, or the repairs were unnecessary or were required because the tenant didn't take proper care of the rental unit, the landlord can:

- file a monetary claim against the tenant, or
- issue a Notice to End Tenancy for non-payment of rent.

If an arbitrator decides in the landlord's favour, the tenant will be required to pay the costs as ordered by the arbitrator.

If the landlord has already paid the bills or if the tenant has deducted the costs from their rent, the tenant must pay the landlord back. If an arbitrator orders the tenant to pay for the emergency repairs and the tenant does not pay, the landlord can:

- end the tenancy for non-payment of rent if the tenant has already deducted the cost of the repairs from the rent payments, and
- deduct the cost from the security deposit at the end of the tenancy (*see Returning a Security Deposit*); or
- file the order in Provincial Court where it remains enforceable for 10 years.

Collecting Rent

A tenant must pay the rent on time. Landlords have the right to request post dated cheques. If a tenant doesn't pay all the rent on the due date, the landlord may issue a 10-day notice advising the tenant to pay all rent owing within five days or vacate on the tenth day after service of the Notice to End Tenancy.

Tenants can only apply to have the notice set aside if they can prove that the rent has been paid in full; if they have deducted a portion of rent for emergency repairs; for overpayment of rent, a security deposit or pet damage deposit, or if an arbitrator has so ordered. There is no general provision in the Act to allow an arbitrator to extend the time frame for a tenant to pay rent. If utility charges owed to the landlord are unpaid more than 30 days after the tenant has been given a written demand for payment, a landlord can issue a 10 day notice and treat the unpaid utility charges as late payment of rent. Repeated late rent payment is grounds for a landlord to end a tenancy.

Q. What happens if a tenant moves without paying the rent?

The landlord may apply to the Residential Tenancy Office for a monetary order against the tenant for the amount owing for unpaid rent and other costs such as cleaning etc. (*see Handling Disputes*). A landlord can't seize or damage a tenant's personal property when the rent isn't paid. If they do, the tenant can ask an arbitrator to order the landlord to return the items or to reimburse the tenants for the value of the items seized or damaged. If a landlord does seize the tenant's property for non-payment of rent, the landlord may be committing an offence and be liable for

a fine of up to $5,000 (payable to the Crown). In order for a landlord to proceed with a monetary claim against a tenant, the landlord must have a forwarding address at which to serve arbitration documents to the tenant.

Tenant's Right to Quiet Enjoyment

A tenant is entitled to quiet enjoyment under the Act, including:

- reasonable privacy;
- freedom from unreasonable disturbance;
- exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit *(see When a Landlord Can Enter the Rental Unit)*;
- use of common areas for reasonable and lawful purposes, free from significant interference.

A landlord is responsible for taking reasonable steps to deal with problems that a tenant or the tenant's guests are causing for tenants in other rental units. Tenants are responsible for ensuring that neither they nor their guests unreasonably disturb other occupants.

Subletting or Assigning a Tenancy

A tenant must seek the written consent of the landlord prior to assigning or subletting rental unit.

The landlord cannot unreasonably withhold consent to assign or sublet if the tenant has a fixed-term tenancy agreement of six months or more. If a landlord does withhold consent on a fixed-term tenancy without good reason, an arbitrator may find that the landlord is unreasonably withholding consent and order that the tenancy is assigned or sublet.

In all other cases, the landlord can legally refuse to let a tenant sublet or assign his or her tenancy for any reason, even if the tenant believes it's unfair.

Important: It is an offence for a landlord to receive payment or other benefit, directly or indirectly, for letting a tenant assign or sublet a tenancy.

--- Rent Increases ---

Rent Increases

Landlords may increase rents by a percentage amount, which is calculated by a formula set by regulation. If a rent increase doesn't exceed the allowable percentage, tenants cannot dispute the rent increase through arbitration. If a given rent increase does exceed that permitted, a tenant can apply for an arbitrator's order that the landlord comply with the provisions set out in the Act and Regulation, however the tenant should first take reasonable steps to resolve the issue with the landlord. The allowable percentage for each year is available at any Residential Tenancy Office, on our website, and on our recorded information line *(see Residential Tenancy Offices)*.

A landlord can ask an arbitrator to allow a bigger increase, using the required Application for Additional Rent Increase form, if the landlord has:

- completed significant repairs or renovations that could not reasonably have been foreseen and are not recurring with a reasonable time period;
- incurred a financial loss from an extraordinary increase in operating expenses, or
- incurred a financial loss from an increase in financing costs that could not reasonably have been foreseen.

A landlord seeking an additional rent increase under these grounds must make a single application to increase the rent for all units in the building.

A landlord can also seek an additional rent increase if the rent for a rental unit is

significantly lower than that of similar rental units in the area. A landlord who, as the head tenant of a rental unit, receives an additional rent increase can ask an arbitrator for permission to increase the rent charge to a subtenant by an additional amount on that basis.

More information on additional rent increases is available at any Residential Tenancy Office, on the website and on the recorded information line.

Landlords can increase the rent only once a year. A landlord can't require a new rent increase until 12 months following the date the last rent increase became effective. In a new tenancy, a rent increase can't be collected until 12 months from the start of the tenancy.

A landlord must provide 3 months notice of a rent increase, on the Notice of Rent Increase form required by the *Residential Tenancy Act*. These forms are available through the Residential Tenancy Office nearest you, from a Government Agent office or BC Access Center, or on our website. The landlord must deliver the Notice of Rent Increase to the tenant in accordance with the service provisions of the Act (*see Service of Documents*).

Q. Do the rent increase provisions mean that I am limited to a certain amount I can raise the rent every year?

Yes, and there are rules to specify how much an annual rent increase can be. A landlord can raise the rent to a maximum prescribed by the Residential Tenancy Regulation. At the start of a new tenancy, a landlord is free to set rent at whatever the rental market will bear.

Hidden Rent Increases

A tenant can contact the Residential Tenancy Office if he or she believes the landlord is hiding

rent increases in the form of fees for, or removal of, facilities and services that were supposed to be included in the tenancy agreement. If a hidden rent increase is determined, the arbitrator may order the landlord to reimburse the tenant, or may order the rent reduced by the decreased value of the tenancy, unless and until the landlord restores the service or facility. How the tenant gets reimbursed for a hidden rent increase depends on whether or not the tenancy is still in place or if the tenant has since relocated. The tenant may be able to deduct the amount from the rent or may receive a monetary order enforceable against the landlord.

***Example**: If a landlord starts charging for access to an exercise room or for cable part way through the tenancy, it could be a hidden rent increase.*

--- Ending a Tenancy ---

This section describes:

- how a tenancy ends;
- what to do if both the landlord and tenant want to end the tenancy;
- what a tenant must do if he or she wants to move out;
- what a landlord must do if he or she wants a tenant to move out;
- ending a fixed-term tenancy agreement;
- abandoned or frustrated tenancies;
- returning a security and/or pet damage deposit; and
- what happens if a tenant leaves anything behind when he or she moves out.

How a Tenancy Ends

A tenancy ends only if:

- the tenant or landlord gives notice to end the tenancy in accordance with the *Residential Tenancy Act*;
- the tenancy agreement is a fixed term tenancy agreement that provides that the tenant will vacate the rental unit at the end of the term;
- the landlord and tenant agree in writing to end the tenancy;
- the tenant vacates or abandons the rental unit;
- the tenancy agreement is frustrated; or,
- an arbitrator orders that the tenancy is ended.

Move out time is 1:00 p.m. on the last day of the tenancy unless the landlord and tenant otherwise agree. If the tenant gives less than

the proper notice, or doesn't move by 1:00 p.m. on the last day of the tenancy, he or she may be liable to pay the landlord, for over holding, a pro-rated amount of rent and any additional costs the landlord may incur for that period. Those costs may include costs of housing a new tenant who was set to move into the rental unit. A landlord may try to recover these costs through arbitration (*see Returning Security Deposits and Monetary Claims*). This provision does not override the landlord's obligation to mitigate the potential loss. For example, if the landlord loses a new tenant because the tenant overholds, the landlord must attempt to re-rent the rental unit as soon as possible.

Mutual Agreement to End a Tenancy

At any time a landlord and tenant can agree in writing that the tenancy agreement will end on a specified date. The landlord or the tenant can draw up their own agreement or they can use a sample form, available from any Residential Tenancy Office or our website.

This agreement can form part of a fixed-term tenancy agreement. Such an agreement must specify that the tenant will vacate the rental unit at the end of the fixed-term.

The Tenant Wants to Move Out

When a tenant wants to move out, he or she must provide the landlord a written, signed notice providing the complete address of the rental unit and indicating when the tenant plans to move out. The notice must be a minimum of one clear month, cannot take effect before the end of a fixed term tenancy agreement, and must be given on or before last day of a rental payment period to be effective on the last day of a subsequent rental payment period.

For example, in a month-to-month tenancy, if rent is due on the first day of the month, the tenant must give notice to the landlord no later than September 30th to move out on October 31st. If the tenancy agreement is for a fixed term ending December 31st, the tenant can give notice any time up to November 30th, to take effect on December 31st.

The Landlord Wants the Tenant to Move Out

If a landlord wants a tenant to move out, the landlord must give the tenant notice on a Notice to End Tenancy form which is available through the Residential Tenancy Office, Government Agent's office or BC Access Center, or on our website. The notice must:

- be signed by the landlord or the landlord's appointed agent;
- include the complete rental address and the date the tenant is to move out;
- include the reasons for asking the tenant to move out; and
- outline the tenant's right to dispute the notice (included on the pre-printed form).

In most circumstances, the landlord must give a tenant at least one or two months' notice to move out. The following section describes:

- when the landlord can give one-month notice;
- when the landlord can give two-months' notice;
- what happens if a new person joins the tenant's household;
- what happens if the tenant disputes a Notice to End Tenancy; and
- what happens if a tenant refuses to leave the rental property.

One-Month Notice

A landlord can give a tenant a one-month notice to move out for the following reasons:

- The tenants or their guests have caused extraordinary damage to the rental unit or property.
- The tenant or their guests have damaged property over and above reasonable wear and tear and haven't made repairs within a reasonable period of time.
- The tenants or their guests have seriously jeopardized the safety or other right or interest of the landlord or another occupant. significantly interfered with or unreasonably disturbed the landlord or another occupant, or put the landlord's property at significant risk.
- The tenants or their guests have engaged in illegal activity that has, **or is likely to**, cause damage to the landlord's property; adversely affect the quiet enjoyment, security or safety of other occupants; or jeopardize a lawful right or interest of the landlord or other occupant.
- The tenant hasn't paid the security deposit or pet damage deposit within 30 days of the date of entering into a tenancy agreement.
- The tenant is repeatedly late paying rent.
- The tenant knowingly gave false information about the rental unit or building to someone interested in renting a rental unit or buying the building.
- There are an unreasonable number of occupants in the rental unit.
- The tenant has broken a material term of the tenancy agreement and has not fixed the problem within a reasonable period of time

after receiving written notice from the landlord to do so.

- The rental unit must be vacated to comply with an order of a federal, British Columbia, regional or municipal government authority.
- The tenant assigns or sublets the rental unit without the landlord's consent.
- The tenant's employment as caretaker, janitor, manager or superintendent has ended and the landlord needs the unit for a new caretaker, janitor, manager or superintendent.
- The tenant was provided with rental unit during their employment and that employment has ended.
- The tenant has not complied with an arbitrator's order.

Note: Effective January 1, 2004, landlords are able to end tenancies for illegal activity that has, ***or is likely to***:

- *Cause damage to the landlord's property*
- *Adversely affect the quiet enjoyment, security or safety of other occupants*
- *Jeopardize a lawful right or interest of the landlord or other occupant*
- *Put the landlord's property at risk*

Two-Month Notice

The landlord can give the tenant a two-month notice to move out for the following reasons:

- The landlord or the landlord's spouse, parents or children plan to live in the rental unit.
- The landlord has sold the property to purchasers who have notified the landlord in writing that they, or a member of their immediate family,

intend to live in the unit (and all "subject to" clauses to the sale agreement have been removed).

- The landlord plans to demolish the rental unit and has obtained all required permits.
- The landlord plans to convert the rental unit to a strata property unit.
- The landlord plans to convert the rental unit to a non-profit co-operative or society.
- The landlord plans to convert the rental unit into non-residential premises, such as a shop, for at least six months.
- The landlord plans to convert the rental unit into a caretaker's premises for at least six months.
- The landlord plans to repair or renovate the rental unit and the building or rental unit must be empty to do the work.
- The landlord plans to convert the residential property into a not for profit housing co-operative under the *Cooperative Association Act.*

If the landlord gives a two-month Notice to End Tenancy for any of the reasons listed above **and there is a fixed-term tenancy in place**, the effective date of the Notice may be no earlier than the pre-determined end date of the fixed-term.

Except in a fixed-term tenancy, if the landlord gives the tenant a two-month Notice to End Tenancy, the tenant can move out earlier by giving the landlord a minimum 10-day written notice and paying the rent due up to the date they plan to move out. A landlord may also have to rebate a pro-rated portion of the rent if the tenant has paid the full month's rent, and vacates the rental unit with the minimum required written notice.

A landlord who gives a tenant notice for landlord's use of property must pay the tenant, on or before the effective day of the notice the equivalent of one month's rent.

Before a landlord can give a Notice to End Tenancy to demolish, convert or renovate the property, all the permits and approvals required by law must be obtained.

If a landlord doesn't take steps to use the rental unit for the purpose given on the Notice to End Tenancy, within a reasonable time after ending the tenancy and for at least six months, the landlord must pay the tenant additional compensation of double the monthly rent payable under the tenancy agreement.

If a landlord ends the tenancy so that he or she, or a family member or purchaser may live in the rental unit, and that individual doesn't live in the rental unit for a minimum of six months after the tenant moves out, the tenant can claim compensation of double the monthly rent. The landlord who can demonstrate an honest intent to occupy, renovate, convert or demolish at the time the Notice was issued has a valid defense against the claim for compensation.

A New Person Joins the Household

Without a valid reason, the landlord can't end a tenancy because a new person joins the household. However, if the addition of the person makes the number of people living in the rental unit unreasonable, the landlord can give the tenant a one-month Notice to End Tenancy. The landlord would require good supporting evidence and reasons for restricting the number of occupants in a tenancy, or to show the number of occupants is unreasonable.

A landlord can provide, in the tenancy agreement, that the rent will increase when an additional person joins the household.

When a Landlord Can End a Tenancy Without Full Notice

The landlord can apply for arbitration to end a tenancy without the usual notice if a tenant or the tenant's guests have:

- significantly interfered with or unreasonably disturbed another occupant of the property, or the landlord;
- seriously jeopardized the safety, rights or interests of the landlord or another occupant;
- engaged in illegal activity that has caused or is likely to cause damage to the landlord's property; disturb or threaten the security, safety or physical well-being of another occupant of the property, or jeopardize a lawful ri[illegible] or interest of another occupant or the landlord; or,
- caused major damage to the property or put the landlord's property at significant risk.

The landlord must be able to demonstrate sufficient urgency to the situation to justify not giving the usual notice. The Act requires that it must be unreasonable or unfair, to the landlord or other occupants, to require a one-month notice.

Note: *Solid and convincing evidence must be provided for an arbitrator to end a tenancy without full notice.*

The landlord can give a 10-day notice to end the tenancy for failure to pay rent at any time after the date the rent was due. If the tenant pays all of the outstanding rent within five days of receiving this notice, the notice is void. Tenants can apply to have the notice set aside only if they

can prove that the rent has been paid in full; if they have deducted a portion of rent for emergency repairs; for overpayment of rent, a security deposit or pet damage deposit, or if an arbitrator has so ordered.

There is no provision in the Act to allow an arbitrator to extend the time frame for a tenant to pay rent. If the tenant does not pay the rent due or file for arbitration disputing the rent due, the tenant must move out of the property within 10 days of receiving the notice.

*Note: It is an offence for a landlord to seize a tenant's personal property to satisfy a claim **without** a court order.*

When a Tenant Can End a Tenancy Without Full Notice

If the tenant believes that the landlord has breached, or broken, a material term of the tenancy agreement, the tenant can elect to treat the tenancy as ended. The tenant must inform the landlord of this decision **in writing** and should document the breach of agreement as such actions often result in arbitration. If an arbitrator decides that the term was not material or there was not a breach sufficient to end the tenancy, or the tenant did not exercise all available options such as seeking an arbitrator's order, the tenant may be liable for the landlord's proven costs. A tenant must exercise all reasonable options available under the Act before electing to end the tenancy without the proper notice.

***Note:** Material terms are sometimes identified as such in a tenancy agreement. They tend to be important provisions of the tenancy. More information on material terms is available on the Residential Tenancy Office website.*

Disputing a Notice to End Tenancy

If a tenant believes the notice is not justified, they can contact the Residential Tenancy Office (*see Handling Disputes*).

The deadlines for applying for arbitration are:

Length of Notice to End A Tenancy	Deadline to Apply for Arbitration
10-day notice (failure to pay rent)	within five days of receipt of the Notice to End Tenancy
One-month notice	within ten days of receipt of the Notice to End Tenancy
Two-month notice	within 15 days of receipt of the Notice to End Tenancy

If the deadline is missed, it may be possible to obtain an extension, however an arbitrator cannot extend the time to pay rent without the landlord's agreement, unless the tenant deducted the unpaid amount because the tenant believed that the deduction was allowed for emergency repairs or under an arbitrator's order. If a formal application to dispute the notice is not filed with the Residential Tenancy Office, the tenant accepts that the tenancy will end on the date given.

If the Rental Unit is not Vacated

If a landlord has reason to believe the tenant may not move out, he or she can apply for an Order of Possession after the tenant's deadline to dispute the notice has passed, or after the tenant has disputed the notice.

A landlord can also make an oral request for an Order of Possession at an arbitration hearing on a tenant's application to dispute a Notice to End Tenancy. If the tenant's application is dismissed

or the tenant does not appear, the arbitrator must grant such a request.

Fixed-Term Tenancy Agreements

A fixed-term tenancy agreement ends if the landlord and tenant agree in writing that the tenancy ends on a specific date and that the tenant must vacate on that date. If the tenancy agreement is a fixed term tenancy that does not provide that the tenant will vacate, and the tenant does not wish to continue the tenancy after the term, the tenant must provide the landlord with a one-month written notice ending the tenancy, on or before the last day of the previous month.

If the agreement is not renewed and there is no specific agreement in writing that the tenancy will end and the tenant will move out at the end of the fixed-term, the tenancy automatically becomes a month-to-month tenancy after the fixed-term expires.

Abandonment

A landlord can determine that a tenancy agreement has been abandoned if the tenant does not pay the rent and removes their possessions from the building, unless the landlord has specific information that the tenant does not intend to end the tenancy and plans to return. The landlord can also determine abandonment if the tenant has told the landlord that he or she doesn't intend to return, or the circumstances surrounding the giving up of the rental unit are such that the tenant could not reasonably be expected to return. If the tenant leaves their possessions in the building, even if the tenant doesn't pay rent, the landlord must wait for a month within which the tenant does not ordinarily occupy the rental unit before making a determination of abandonment. A landlord cannot determine abandonment if the rent has been paid.

If the tenant has left only a few possessions in the building, the landlord can consider the probability that those possessions have been forgotten or left as being of no value in deciding whether he or she has to wait a month before removing the possessions and re-renting the rental unit *(see When a Tenant Leaves Possessions Behind)*.

If a tenant is going to be away for a period of time, it's a good idea to tell the landlord and make arrangements to pay their rent while they are gone. If the tenant does not inform the landlord that they will be away, does not pay their rent on time, and is gone for 30 days or more, the landlord may believe the tenant has abandoned the rental unit and start to remove the tenant's possessions.

Frustration

A tenancy agreement is frustrated if the rental unit or property is damaged by an unforeseen event beyond the control of the parties such that the rental unit cannot be occupied for an extended period. The tenancy agreement ends when the unexpected event occurs. No notice to end the tenancy by either party is required.

--- Security & Pet Damage --- Deposits

This section describes:

- when a security or pet damage deposit must be returned;
- how to calculate interest on the deposit;
- what a landlord can deduct from a deposit;
- handling disputes over deposits;

When a Security or Pet Damage Deposit Must be Returned

The landlord has 15 days after the tenancy has ended to do one of the following:

- Give the tenant the entire deposit plus interest as provided in the *Residential Tenancy Act*. It is useful to provide a statement showing the amount of the deposit and interest earned from the date the tenant paid the deposit.
- Obtain the tenant's agreement in writing to all deductions (the Condition Inspection Report form contains a section where the tenant can agree to deductions).
- Apply to the Residential Tenancy Office and ask an arbitrator to order that the landlord may retain all or part of the deposit.
- If the tenant agrees to deductions from the security and/or pet damage deposit, the landlord must get the tenant's written consent to subtract costs for repairs or unpaid rent then return to the tenant the balance including interest. Again, it is useful to provide a statement showing the amount of the deposit, the interest and the reasons for the deductions.

- If the tenant does not agree to deductions from the security and/or pet damage deposit, the landlord must apply for arbitration asking for an order to allow the landlord to keep some or all of the tenant's deposit, plus interest if necessary to cover the claim.
- Tenants must provide the landlord with a forwarding address in writing. The 15 days a landlord has to make a claim against a deposit does not start until the forwarding address is supplied, in writing.
- Landlords can retain the security and/or pet damage deposit if the tenant's forwarding address is not supplied within one year of the end of the tenancy.
- The tenant's right to the security and/or pet damage deposit is extinguished if a claim is not made in two years.

How to Calculate Interest on a Security or Pet Damage Deposit

Interest paid compounds annually on the anniversary date of the deposit. The requirement to pay interest on security deposits started on December 1, 1974. Interest rates are available from any Residential Tenancy Office. The Interest Calculation program can be downloaded from the Residential Tenancy Office website.

What the Landlord Can Deduct from a Security or Pet Damage Deposit

At the end of the tenancy, a landlord can ask a tenant to agree in writing to deductions for payment of unpaid rent or damages. Examples may include;

- damage the tenant or their guests caused (this does not include normal wear and tear from ordinary use);

- cleaning costs if the rental unit was not left reasonably clean, or
- changing the locks if the keys were not returned.

Claims against or deductions from pet damage deposits can only be made for damage caused by the pet

A landlord may only make deductions without the tenant's written permission if he or she:

- has an arbitrator's order from a previous dispute that the tenant hasn't paid; or
- obtains an arbitrator's order to deduct a certain amount from the deposit.

An application filed by the landlord requesting to retain the security or pet damage deposit must be filed on or before the later of the 15th day after the tenancy ended or the date the tenant provides a forwarding address in writing.

Handling Disputes Over a Security or Pet Damage Deposit

At the end of the tenancy the landlord and tenant must complete a condition inspection report and discuss deductions and refunds. If the tenant doesn't agree with any deductions the landlord wants to make, the tenant should check the claim against the report that describes the condition of the unit when the tenancy began. This report should be kept with the tenancy agreement.

If a report was not completed when the tenancy began and the tenancy began before January 1, 2004, a tenant may still dispute the landlord's claim against the security deposit; however, the tenant should be prepared to provide evidence regarding any problems with the condition of the rental unit that existed at the start of the tenancy. A landlord and tenant should talk to each other about any concerns they may have.

If the tenancy began on or after January 1, 2004, and the landlord did not offer the tenant an opportunity to inspect the rental unit at the start of the tenancy, or did not complete a condition inspection report in accordance with the Regulation, the landlord cannot claim against the deposit for damage to the rental unit. If the tenancy ended on or after January 1, 2004, and the landlord did not offer the tenant an opportunity to inspect the rental unit at the end of the tenancy, or did not complete a condition inspection report, the landlord cannot claim against the deposit for damage to the rental unit.

If the landlord offered the tenant the opportunity to take part in an inspection of the rental unit and the tenant did not do so, the landlord can keep the deposit and the tenant is not entitled to its return.

The tenant must provide the landlord with a forwarding address, in writing. If the tenant and the landlord can't come to an agreement regarding deductions from the security deposit or pet damage deposit, the landlord may apply for arbitration and serve the tenant at this address. If a landlord decides to apply for arbitration, the landlord must do so within 15 days after the tenancy ends or the tenant provides a forwarding address in writing, whichever is later. An arbitrator will consider evidence from both sides and decide who is entitled to the security deposit.

If the tenant does not provide the forwarding address within one year of the end of the tenancy, the landlord is entitled to keep the deposit. If the landlord has not applied to retain the security deposit within 15 days after the tenancy ends or a forwarding address is provided in writing, the deposit plus interest **must be returned** to the tenant (*see Monetary Claims*).

Consequences of not Complying with the Act

Landlords who don't return or file claims against security or pet damage deposits within 15 days of the end of the tenancy can be ordered to reimburse the tenant double the amount of the deposit. The 15 day time frame to return the deposit doesn't start until the tenant provides the landlord with a forwarding address in writing.

***Note**: If a landlord has applied for arbitration to retain the deposit, the landlord can hold the deposit until an arbitrator resolves the dispute. A tenant may not apply for the return of a security or pet damage deposit until 15 days after the end of the tenancy agreement, or 15 days from the date the forwarding address was provided to the landlord in writing. After 15 days have passed the tenant may apply for the return of the deposit any time up to 2 years from the end of the tenancy.*

If a landlord is served an Application for Arbitration for the return of the security deposit and also wants to pursue a claim if he or she has not already done so, the landlord must immediately file a monetary claim that can be served on the tenant at the address provided. If the landlord is unsuccessful in serving at the address provided then the landlord can serve the tenant at the actual arbitration hearing, however the landlord should be aware that the landlord's claim may well not proceed on that day.

Q. How does a landlord return the deposit if the tenant is on income assistance with the Ministry of Human Resources?

Unless the security deposit has been assigned to the Ministry, the landlord must return the security deposit to the tenant, get the tenant's consent to keep all or part of the deposit or, within 15 days, apply for arbitration naming the tenant.

If the deposit has been assigned, the landlord should contact the Ministry of Human Resources (1-800-770-6775) for information.

--- When a Tenant Leaves --- Possessions Behind

If a tenant leaves any possessions behind when the tenant moves out, the landlord must store them in a safe place for a period of 60 days following removal and keep a written inventory of the abandoned property. If the property has a total market value of less than $500; the cost of removing or storing the property would be more than the proceeds of its sale, or the storage of the property would be unsanitary or unsafe, the landlord may dispose of the property in a commercially reasonable manner. If the tenant doesn't claim the goods within the required time, and if they owe the landlord money under the tenancy agreement, the landlord can sell the goods in accordance with the Regulation. The landlord can deduct, from the proceeds, any amounts payable by the tenant plus reasonable costs of storing and disposing of the property. Any money left over must be forwarded to the Administrator under the *Unclaimed Property Act.*

Not less than 30 days before disposing of the property, the landlord must give notice of disposition to any person who:

- has registered a financing statement in the name of the tenant or the serial number of the property in the Personal Property Registry; and
- to the knowledge of the landlord, claims an interest in the property.

The landlord must also publish the notice in a newspaper published in the area in which the rental unit is situated. The notice must contain:

- the name of the tenant;
- a description of the property to be sold;

- the address of the rental unit;
- the name and address of the landlord, and
- a statement that the landlord will dispose of the property, unless the person being notified takes possession of the property, establishes a right to the property, or makes application to an arbitrator or the Supreme Court to establish such a right within 30 days of being served with the notice.

The notice must be given in accordance with the *Personal Property Security Act*. Any such person must pay the landlord's moving and storage costs before taking possession of the property in which they have an interest.

--- Monetary Claims ---

A landlord or tenant has up to two years from the end of the tenancy to apply for arbitration making a monetary claim for debts or damages respecting a right or obligation under the *Residential Tenancy Act*. Common examples of monetary claims by a landlord include rent owing and damage above normal wear and tear. Common tenant monetary claims include recovering all or part of a security deposit or pet damage deposit.

A tenant may receive a monetary order for a reduced use of the rental unit if all or part of it becomes unusable through no fault of the tenant, even where the landlord is also not at fault. However, a monetary award against the landlord will not be granted for damage to a tenant's possessions unless the landlord was negligent and can be shown to be at fault. A tenant can generally not claim against a landlord's insurance for damage to the tenant's property. Tenants should obtain renter's insurance to cover any possible damage claim they may have on their own possessions.

More information about monetary claims is available on the Residential Tenancy Office website or on the recorded information line.

Residential tenancy arbitrators can hear applications for monetary claims up to the limit established for Small Claims Court, currently $10,000. If the damage claim exceeds $10,000, the dispute must be filed in the Supreme Court of British Columbia. Parties may choose to limit the amount claimed to $10,000 to make use of the arbitration system, however, they cannot then make a separate claim for the balance in any court.

If a landlord or tenant does not make a monetary claim within two years of the end of the tenancy, the claim is extinguished and cannot be collected. However, a landlord or tenant who is the respondent on a claim filed towards the end of that period is entitled to file an opposing claim until the hearing on the original claim is finished, even though the two years might have expired.

--- Handling Disputes ---

Information

Discuss the problem with the other party. If the issue is not resolved, contact a Residential Tenancy Office Information Officer who will explain landlord and tenant rights, responsibilities, and options under the Act.

Information that may assist in ensuring that the other party understands the provisions of the Act is available in any Residential Tenancy Office or on our website *(see Residential Tenancy Offices)*.

Arbitration

If the dispute isn't resolved, either the landlord or the tenant may apply for arbitration. To apply for arbitration, the applicant must fill out an Application for Arbitration and pay a filing fee. The applicant may ask that the filing fee be repaid by the respondent. It may be possible to waive the filing fee for low-income applicants based on proof of income. The applicant must serve a copy of the Application for Arbitration and Notice of Hearing to the other party, called the Respondent, within 3 days of applying for arbitration (*see Service of Documents*). An Application for Arbitration must be served by giving a copy of the Application, Notice of Hearing, and any attachments to each person named on the application. The hearing package must be served personally or by registered mail (*see Service of Documents*).

A landlord cannot ask a tenant to agree to opt out of arbitration as a condition of entering into, or as a term of, a tenancy agreement. Such a term is contrary to the Act, and is not enforceable.

Important: *Depending on the type of dispute, there may be deadlines for filing for arbitration (see Disputing a Notice to End Tenancy and Returning a Security Deposit).*

Q. What happens during arbitration?

The arbitrator will review the facts and hear the relevant evidence from both sides. Most hearings are completed in less than one hour. The burden of proof is on the person making the application to prove their claim at a hearing. Therefore, parties to a hearing must provide the best evidence possible to support their claims. If conflicting evidence is provided, the arbitrator must decide which evidence is stronger, and make a decision. The arbitrator is bound by law to make a decision based on the merits of each case, and is not bound by legal precedent.

Note: *It is an offence for a landlord or tenant to give false or misleading information in an arbitration proceeding.*

The arbitrator will make a decision within 30 days. If the arbitrator determines the matter is frivolous or vexatious, trivial or not initiated in good faith, the arbitrator may dismiss the case without making a decision. A written decision is provided.

Arbitrators may assist the parties to mutually resolve the dispute in arbitration, and can record any settlement in the form of a decision or order.

Q. How do I prepare for my arbitration hearing?

Information on getting ready for arbitration can be found in the booklet "Be Prepared", available at any Residential Tenancy Office, Government Agent, BC Access Centre, or on our website.

Joined Arbitration

Tenants who have similar and related disputes with the same landlord, or a landlord who has similar disputes with more than one tenant in the same rental property, may apply to the Director to have those disputes heard and decided together.

Those who apply for joined arbitration must agree in writing to deal with all the issues at once.

Review of Arbitrator's Decision

The *Residential Tenancy Act* permits an arbitrator to reopen a matter in limited circumstances where a party can show that evidence exists that did not come to the arbitrator's attention, and would likely have affected the arbitrator's decision. Those circumstances arise if a party:

- was unable to attend the original hearing due to circumstances that could not be anticipated and that were beyond his or her control,
- has new and relevant evidence that was not available at the time of the original hearing, or
- has evidence that the arbitrator's decision was obtained by fraud.

On receipt of the written decision or order, a party to a hearing who wants a review must submit an Application for Review of the Decision or Order of an Arbitrator, with the filing fee, within:

- 2 days, where the matter relates to a request for an order of possession, or an order assigning or subletting a tenancy,
- 5 days, on a repair application or an application disputing a notice to end a tenancy or
- 15 days, on any other matter.

The application must clearly set out the grounds for review, and be accompanied by sufficient **evidence** to support the grounds on which the application is made. The arbitrator will generally make the initial decision of whether to reopen the matter based solely o n the application for review submitted by the applicant and accompanying evidence.

A hearing is not required at this stage of the review process although an arbitrator may call the parties back for a review hearing. If the arbitrator decides that sufficient grounds exist to allow the review, the applicant will be required to serve the other party with a copy of the arbitrator's decision reopening the matter. The other party will have an opportunity to respond to any new evidence before a final decision is made.

Note: Evidence may include affidavits, records, documents, or exhibits. Allegations or an otherwise unsupported application for review will not be suffic:ent to obtain a review.

Applications for review may be filed at any Residential Tenancy Office, Government Agent's office, or BC Access Centre.

If a landlord or tenant has some other basis for review, or believes that the arbitrator made an error on the review application, that party may apply to the Supreme Court of British Columbia for a petition for judicial review under the *Judicial Review Procedure Act*. A landlord or tenant considering this action may wish to seek legal advice.

Note: *It is important to understand that no government official or Residential Tenancy Office staff at the Residential Tenancy Office has the ability to change, vary, alter, or interfere with an arbitrator's decision. Only a Justice of the Supreme Court can review an arbitrator's decision based on an error in law, bias, or procedural fairness.*

--- Enforcing Your Order ---

Arbitrators' decisions and orders are enforceable in the Provincial and Supreme Courts of British Columbia. If an arbitrator makes an order in your favour, it is your responsibility to enforce the order. The *Residential Tenancy Act* does not give the Residential Tenancy Office or arbitrators the authority to enforce orders or to assist you with this process. Most people comply with an arbitrator's order once it is served on them. If a tenant does not comply with an arbitrator's order within 30 days of the date specified in the order or, if the order does not specify a date, within 30 days of receiving the order, the landlord can give a one month notice ending the tenancy.

Monetary Orders are enforceable in the Provincial Small Claims Court. Orders of Possession and other non-monetary orders are enforceable in the Supreme Court of British Columbia. Orders of Possession cannot be filed in a court for enforcement, until the expiry of the time limit for application for review.

Once the order is filed with the courts, the applicant has the use of the enforcement tools of the courts.

The Residential Tenancy Office has handouts on enforcing Orders. See our website, or contact your nearest Residential Tenancy Office if you didn't receive a copy with your arbitrator's order.

Enforcement proceedings are matters of the Supreme and Provincial Courts of British Columbia. Although an Information Officer can give you some general information on how to initiate enforcement proceedings, this is a matter that falls under the jurisdiction of the courts. Questions relating to the enforcement process should be directed to the local court registry.

--- Offences ---

There are some actions taken by a landlord or tenant that could constitute an offence under the *Residential Tenancy Act*. Upon conviction, a landlord or tenant may be fined up to $5,000 for each offence depending on the nature of the offence. A number of offences have been identified throughout this publication. In addition, it is an offence to:

- coerce, threaten, harass or intimidate a tenant or landlord because he/she was seeking a remedy under the *Residential Tenancy Act*;
- give false or misleading information at an arbitration proceeding;
- cause deliberate damage to property;
- contravene or fail to comply with an arbitrator's decision or order.
- seize or interfere with access to a tenant's property.

Enforcement falls under the *Offence Act* and is the responsibility of law enforcement agencies and Crown Counsel. The onus is on the complainant to initiate action. Please contact the nearest Residential Tenancy Office for a full list of offences and/or more information about the offence provisions of the Act. Information Officers may be able to suggest remedies under the Act that can address your concerns.

--- Service of Documents ---

Any notice or document that is required to be served on a landlord or tenant must be delivered in accordance with the *Residential Tenancy Act.*

The following types of documents must be served directly to the other party or in the case of a landlord to an agent of the landlord or by registered mail to the person's residence or if for a landlord to the address where the person carries on business as a landlord:

- an Application for Arbitration, which must be served with the Notice of Hearing *(see Handling Disputes)*
- an Arbitrator's Decision to proceed with a review

An Application for Arbitration regarding an Order of Possession for a Landlord can be served by attaching a copy to the door or another conspicuous place at which the tenant resides.

Any other notice or document may be served by:

- leaving it with the person or, if for a landlord with an agent of the landlord;
- sending it regular or registered mail to the person's residence or, if for a landlord , to the place where the person carries on business as a landlord (deemed received on the fifth day after mailing);
- leaving it at the persons' residence with an adult who apparently lives there
- leaving it in a mailbox or mail slot at the person's residence or, if for a landlord, at the address where the person carries on business as a landlord (deemed received on the third day after leaving it);

- attaching it to a door or other conspicuous place at the person's residence or, if for a landlord, at the place where the person carries on business as a landlord (deemed received on the third day after posting); or,
- faxing it to the fax number provided as an address for service by the person to be served (deemed received on the third day after faxing).

If a question arises regarding service of documents, it will be the responsibility of the person serving the documents to provide proof of service to the Arbitrator. If the person who served the tenant is unable to attend the hearing, a sworn Affidavit of Service generally provides sufficient evidence of service.

--- Forms ---

The following forms are available by contacting the any Residential Tenancy Office, Government Agent's office BC Access Center, Residential Tenancy Office or on our website.

Notice of Rent Increase:

A landlord must give a tenant a copy of this completed notice at least three months before a rent increase is due to take effect.

Notice to End Tenancy:

A landlord must use this notice to end the tenancy agreement, unless the tenancy is a fixed-term agreement that contains a predetermined expiry date and the tenant has agreed to vacate by that date, or the landlord and tenant have agreed in writing to end the tenancy.

Notice Terminating or Restricting a Service or Facility:

A landlord must give the tenant a copy of this completed notice at least 30 days before terminating or restricting a service or facility.

Notice of Final Opportunity to Schedule a Condition Inspection:

A landlord must use this form to propose an alternate time for a condition inspection to a tenant if the landlord and tenant are unable to mutually agree to a time.

Application for Arbitration:
The person bringing a dispute to arbitration must fill out this application if he or she wants an arbitrator to resolve a dispute. The applicant must deliver this application to the nearest Residential Tenancy Office, Government Agent office or BC Access Center.

Application for Additional Rent Increase:
A landlord must use this form to request an increase over the regulated annual amount. The applicant must deliver this application to the nearest Residential Tenancy Office, Government Agent office or BC Access Center.

A **Tenancy Agreement** and a **Condition Inspection Report** must meet certain criteria established under the Regulation. Sample forms are available on our website.

--- Residential Tenancy ---
Offices

Our Residential Tenancy Offices have some of the busiest phones in government. To help provide better service to landlords and tenants we have expanded our 24-hour recorded information service. Phone these recorded lines to receive general information and to request any forms or guides:

Lower Mainland	**660-1020**
Elsewhere in BC	**1-800-661-4886**
Enquiry BC	**1-800-663-7867**

If you need to discuss your concerns with an Information Officer, contact the Residential Tenancy Office nearest you. If there is no Residential Tenancy Office in your community, call 1-800-665-8779 or Enquiry BC at 1-800-663-7867 and ask to be connected to the nearest Residential Tenancy Office.

Burnaby
400 - 5021 Kingsway Avenue
Burnaby, BC V5H 4A5
Information line: (604) 660-3456
Administration only: (604) 660-3400
Fax: (604) 660-2363
E-mail: SGRTOBurnaby@gems9.gov.bc.ca

Surrey
10009 - 136A Street
Surrey, BC V3T 4G1
Information line: (604) 660-3456
Administration only: (604) 930-3600
Fax: (604) 930-3615
E-mail: SGRTOSurrey@gems4.gov.bc.ca

Kelowna
201 - 1726 Dolphin Avenue
Kelowna, BC V1Y 9R9
Information line: (250) 717-2000
Administration only: (250) 717-2011
Fax: (250) 717-2021
E-mail: SGRTOKelowna@gems3.gov.bc.ca

Victoria
1st Floor, 1019 Wharf Street
Victoria, BC V8W 9J8
Information line: (250) 387-1602
Administration only: (250) 356-9901
Fax: (250) 356-7296
E-mail: SGRTOVictoria@gems7.gov.bc.ca

Forms and information are also available from your Government Agent office or the BC Access Center.

To access the Residential Tenancy website, visit the B.C. Government website at:

www. gov.bc.ca

and type "RTO" in the search bar.